

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**DATATREASURY CORPORATION, §
Plaintiff, §
§
v. § Cause No. 06MC75
§ E.D. Tex. Cause No. 2:03CV00459
MAGTEK, INC., §
Defendant. §**

**PLAINTIFF DATATREASURY CORPORATION'S RESPONSE IN
OPPOSITION TO NON-PARTY CREATIVE PAYMENT SOLUTIONS INC.'S
MOTION TO QUASH PLAINTIFF'S SUBPOENA**

DataTreasury Corporation respectfully requests that this Court deny Creative Payment Solutions, Inc.'s Motion to Quash Plaintiff's Subpoena that was filed on August 23, 2006. DataTreasury submits that because (1) CPS has failed to properly confer with DataTreasury regarding its discovery motion as required by this Court's Local Rule 26.1; (2) the subpoena issued and served by DataTreasury on CPS does not impose an undue burden on CPS in violation of Federal Rule of Civil Procedure 45; and (3) MagTek, Inc.'s pending motion for protective order in the Eastern District of Texas is irrelevant to the determination of the instant matter.

In support of this response to Creative Payment Solution, Inc.'s motion, DataTreasury submits its supporting memorandum contemporaneously herewith.

Respectfully submitted,

/s/ R. Benjamin King
EDWARD L. VON HOHN,
Attorney in Charge
State Bar No. 09813240

NIX, PATTERSON & ROACH, L.L.P.
205 Linda Drive
Daingerfield, Texas 75638
903.645.7333 (telephone)
903.645.4415 (facsimile)
edhohn@nixlawfirm.com

C. CARY PATTERSON
State Bar No. 15587000
BRADY PADDOCK
State Bar No. 00791394
ANTHONY BRUSTER
State Bar No. 24036280
R. BENJAMIN KING
State Bar No. 24048592
NIX, PATTERSON & ROACH, L.L.P.
2900 St. Michael Drive, Suite 500
Texarkana, Texas 75503
903.223.3999 (telephone)
903.223.8520 (facsimile)
akbruster@nixlawfirm.com
bpaddock@nixlawfirm.com
benking@nixlawfirm.com

JOE KENDALL
State Bar No. 11260700
KARL RUPP
State Bar No. 24035243
PROVOST * UMPHREY, L.L.P.
3232 McKinney Avenue, Ste. 700
Dallas, Texas 75204
214.744.3000 (telephone)
214.744.3015 (facsimile)
jkendall@provostumphrey.com
krupp@provostumphrey.com

ROD COOPER
State Bar No. 90001628
EDWARD CHIN
State Bar No. 50511688
NIX, PATTERSON & ROACH, LLP
5215 N. O'Connor Blvd. Ste. 1900
Irving, Texas 75039

972.831.1188 (telephone)
972.692.5445 (facsimile)
rcooper@cooperiplaw.com
edchin@nixlawfirm.com

ERIC M. ALBRITTON
State Bar ;No. 00790215
ALBRITTON LAW FIRM
P.O. Box 2649
Longview, Texas 75606
903.757.8449 (telephone)
903.758.7397 (facsimile)
ema@emafirm.com

T. JOHN WARD, JR.
State Bar No. 00794818
LAW OFFICE OF T. JOHN WARD, JR.
P.O. Box 1231
Longview, Texas 75601
903.757.6400 (telephone)
903.757.2323 (facsimile)
jw@jwfirm.com

**ATTORNEYS FOR PLAINTIFF
DATATREASURY CORPORATION**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served on the 25th day of August, 2006 via electronic transmission.

Steven Gardner	SGardner@Kilpatrickstockton.com
E. Danielle Thompson Williams	DTWilliams@Kilpatrickstockton.com
Bret T. Winterle	BWinterle@Kilpatrickstockton.com
Otis Carroll	fedserv@icklaw.com
Wesley Hill	
David A. Dillard	david.dillard@cph.com

/s/ R. Benjamin King
R. Benjamin King